IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 598 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JASHWANTKUMAR KALIDAS PATEL - Appellant(s)
Versus
SPL.LAQ OFFICER & 1 - Defendant(s)

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Appearance :
MR PV NANAVATI for Appellant(s) : 1,MR DEVENDRA A PATEL for Appellant(s) : 1,
MR UDAY BHATT A.G.P. for Defendant(s) : 1,
RULE SERVED for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 01/03/2007

ORAL JUDGMENT

1. This is an appeal under Section 54 of the Land Acquisition Act, 1894 [hereinafter referred to as the "Act"]. It is filed by the original claimant for

enhancement of the compensation. According to him, the compensation awarded by the learned Extra Assistant Judge, Mehsana in Land Reference Case No. 1269 of 1995 by judgment and award dated 5th September, 2000 is inadequate. The Court has awarded Rs.40=00 per sq. mtr., According to the appellant the rate of compensation ought to have been Rs.62=00 per sq. mtr.

2. The land in question is agricultural land and it is situated at village Ganapatpura, Taluka Kalol, District Mehsana. It was needed for the purpose of constructing Narmada Canal Projec. Hence, notification under Section 4(1) of the Act was published on 1st November, 1991 followed by declaration under Section 6 of the Act, published in the Government Gazette on 30th April, 1992. After complying with all the necessary formalities, the Special Land Acquisition Officer, Narmada, who is respondent no. 1 made the award under Section 11 of the Act and awarded Rs.2.70 per sq. mtr., by way of compensation.

3. Being aggrieved by the rate of compensation fixed by respondent no. 1, the appellant submitted an application under Section 18 of the Act to the Collector with a request to make reference to the Civil Court for

enhancement of the compensation, which ultimately culminated into Land Acquisition Reference Case No. 1269/1995. Along with present reference case, three other reference cases were also heard by the Civil Court. Before the Reference Court it was averred that the amount awarded by respondent no. 1 was hopelessly inadequate and the rate of compensation was required to be substantially increased. According to them, village Ganapatpura was ideally situated and it had number of commercial as well as industrial units. According to the claimants the lands had great potential, since it was situated in the vicinity of places like Gandhinagar, Kalol etc. On the basis of the same, the appellant demanded Rs.100=00 per sq. mtr., by way of compensation. The claim was resisted by the respondents by filing written statement. According to them, the award made by the Special Land Acquisition Officer was just and proper and there was no need to enhance the quantum of compensation.

4. Before the Reference Court the parties examined the witnesses. They also produced documentary evidence. On the basis of the same, the Court concluded that the award of respondent no. 1 was very less and it determined the rate of compensation at Rs.40=00 per sq. mtr. Hence, this appeal.

5. I have heard Mr. Devendra Patel learned advocate for the appellant and Mr. Bhatt learned A.G.P., for the respondents. Mr. Patel has submitted that the claimants of allied Reference cases had earlier approached this Court by filing appeal under Section 54 of the Act. Their appeals were numbered as First Appeal No. 2548/2001 to First Appeal No. 2550/2001. This Court allowed the appeals and raised the rate of compensation from Rs.40=00 to Rs.62=00 per sq. mtr. In support of his say, he has produced copy of the said judgment of this Court dated 19th October, 2001. Mr. Bhatt is not in a position to deny this. When this Court has adequately considered the merits of the case in earlier appeals, and has determined the rate of compensation at Rs.62=00 per sq. mtr., there is no reason for me to take any different view in this appeal. The earlier decision is of the Division Bench and hence, even otherwise also I am bound to follow it. In view of the same, the rate of compensation is required to be enhanced to Rs.62=00 per sq. mtr., from Rs.40=00 per sq. mtr. The rate of compensation is fixed at Rs.62=00 per sq. mtr., instead of Rs.40=00 per sq. mtr., together with interest and proportionate costs as determined by the Reference Court on the additional amount. This appeal is, therefore,

allowed with no order as to costs in appeal.

R & P to re-transmitted to the Reference Court forthwith.

[Akshay H. Mehta, J.]

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